

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

LEON CARIL II,

Petitioner,

v.

ROBERT JACKSON,

Respondent.

CASE NO. 2:23-cv-01735-RSM-GJL

ORDER STAYING THE CASE

The District Court has referred this federal habeas action filed pursuant to 28 U.S.C. § 2254 to United States Magistrate Judge Grady J. Leupold. Petitioner Leon Caril II, proceeding *pro se* and *In Forma Pauperis*, has filed a federal habeas Petition seeking relief from a state court judgment and sentence. Dkt. 21. Presently before the Court is Respondent's Response to the habeas Petition as to the issue of exhaustion only. Dkt. 24.

On April 8, 2024, the Court entered an Order directing service of the habeas Petition, but also directing Respondent to respond only to the question of whether Petitioner has exhausted his state court remedies as required for a § 2254 Petition. Dkt. 22. On April 12, 2024, Respondent

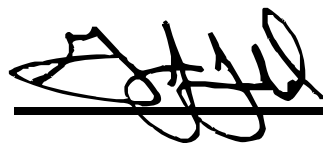
1 filed a Response indicating that Petitioner has not exhausted his state court remedies prior to
2 filing the § 2254 petition. Dkt. 24. Petitioner has not filed a reply. *See* Dkt.

3 District courts may use a “stay-and-abeyance” procedure while a petitioner exhausts his
4 claims in state court. *Rhines v. Weber*, 544 U.S. 269, 275–77 (2005); *Calderon v. United States*
5 *District Court (Taylor)*, 134 F.3d 981, 988 (9th Cir. 1998). Respondent asserts a stay is
6 appropriate here where Petitioner currently has two matters pending in the Washington Court of
7 Appeals related to the relevant judgment and sentence. *See* Dkt. 24 at 1. Thus, it would be a
8 proper exercise of discretion for the Court to stay the federal proceedings because state court
9 proceedings remain pending. *Id.*

10 After reviewing the relevant record, the Court finds a stay is appropriate. The case is
11 **STAYED.**

12 Petitioner is directed to **FILE a report every ninety (90) days** informing the Court of
13 the status of his state court proceedings. The first status report is due **on or before August 13,**
14 **2024**, and shall include the state court cause number(s). If the state court dismisses or resolves
15 Petitioner’s state court proceedings, Petitioner is directed to **INFORM** the Court and **FILE** a
16 motion to lift the stay **within 30 days of the state court taking such action.** Respondent shall
17 **FILE** its answer **within 45 days after the stay is lifted.**

18 Dated this 15th day of May, 2024.

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21 Grady J. Leupold
22 United States Magistrate Judge
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